



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,295	09/18/2003	Anthony J. Muhich	2-5695-002	9069
803	7590	07/25/2006	EXAMINER	
STURM & FIX LLP 206 SIXTH AVENUE SUITE 1213 DES MOINES, IA 50309-4076			THOMPSON, HUGH B	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 07/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/666,295

Applicant(s)

MUHICH, ANTHONY J.

Examiner

Hugh B. Thompson II

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 25 is/are allowed.
- 6) ☒ Claim(s) 1, 4, 9, 16, 23, 24 is/are rejected.
- 7) ☒ Claim(s) 2, 3, 5-8, 10-15 and 17-22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>9-18-03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 23 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to each claim, it appears that “that” should read –than--. Correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4, 9, 16, 23, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al #5,738,046 in view of Tang et al #6,340,524. Williams et al disclose a tree stand assembly comprised of tree stand 114, a first tree-securing strap assembly 80, a second harness/strap assembly 12, a fall arrest intermediate safety strap assembly 60 (webbed material), which is secured at ends thereof the first and second strap assemblies and commonly known to support specific design loads and meet approved OSHA standards, and as recited in column 6, lines 30- 37, the dimensioning of the safety strap assembly to specific sizes being obvious to one

Art Unit: 3634

of ordinary skill in the art. Williams et al fails to disclose specific elongation of the strap relative to a specific loading.

Tang et al teach the utility of a load limiting yarn/webbed material for use with fall arrest assemblies, harnesses safety belts, or the like, the material, as recited in the abstract, having elongation upon specified loading in the range of less than 5% to a critical breaking point about 32% elongation. This elongation is within range the range of elongation recited by the applicant, i.e., at least 3 inches of elongation when the strap assembly is between 6 and 15 inches in length (20%-50% elongation). Therefore, to one of ordinary skill in the art, it would have been obvious to dimension and provide the safety strap assembly of Williams et al with specified loading requirements and elongation requirements, as taught by Tang et al, so as to create a safety strap assembly capable of experiencing the required elongation and loading to protect a user thereof from fall arrest, if so experienced.

Allowable Subject Matter

Claim 25 is allowed.

Claims 2, 3, 5-8, 10-15, and 17-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The primary reason for the allowable subject matter of claims 2, 5, and allowance of claim 25, is the inclusion of a tether attached to the first and second straps, the tether being longer than the strap assembly when the strap assembly is fully stretched. For claim 7, it is the inclusion of the strap assembly comprising a rubber strap with D-rings attached to each end thereof. For claim 17 it is the inclusion of the

Art Unit: 3634

resilient portion of the strap assembly fabricated from a core of hard rubber material. For claim 21, it is the inclusion of the strap assembly having opposed ends of a barrel shape and an intermediate portion having a figure eight cross-section. The prior art of record fails to teach or suggest the claimed features absent the applicant's own disclosure.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jones #6,125,966, O'Dell #6,533,066, Baggetta #4,745,883, Cox #6,405,685, Rizza #6,523,643, Halvorson #4,951,778, Leggett #4,236,602, #4,273,215, and Davis #4,667,773 are cited to teach safety harness and tree stand assemblies.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hugh B. Thompson II whose telephone number is (571) 272-6837. The examiner can normally be reached on Monday thru Friday 9 am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3634

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Hugh B. Thompson II
Primary Examiner
Art Unit 3634

July 22, 2006